

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2005-3-E - ORDER NO. 2005-488  
SEPTEMBER 15, 2005

IN RE: Annual Review of Base Rates for Fuel Costs ) ORDER APPROVING  
of Duke Power Company. ) AND ADOPTING  
 ) SETTLEMENT  
 ) AGREEMENT

This matter comes before the Public Service Commission of South Carolina ("Commission") on the Joint Motion Requesting Approval of Settlement Agreement (the Joint Motion) filed by the Office of Regulatory Staff of South Carolina ("ORS"), South Carolina Energy Users Committee ("SCEUC"), and Duke Power, a division of Duke Energy Corporation ("Duke") (collectively referred to as the "Parties" or sometimes individually as a "Party").

The Parties represent to the Commission that they have engaged in discussions on the issues of this case and further that the Parties have each determined that their interests and the public interest would be best served by settling all issues pending in the above-captioned case under the terms and conditions set forth in the Settlement Agreement executed by the Parties. (The nine page Settlement Agreement including one exhibit, is attached to this Order as Order Exhibit 1 and is incorporated in and made a part of this Order.)

On August 25, 2005, we granted the Motion of Duke to treat specific material filed in the present proceeding as confidential. Specifically, the Commission Ordered that certain materials contained in Duke's responses to the Continuing Data Request of the Office of Regulatory Staff in Duke witness Janice D. Hager's testimony and exhibits, and in Duke's responses to the Second Data Request of the SCEUC, should be treated as confidential.

A hearing in this matter was held on August 24, 2005, before this Commission. Counsel for all parties appeared before the Commission, as did witness A.R. "Randy" Watts of the Office of Regulatory Staff. The pre-filed direct testimony of Mr. Watts and ORS witness Jacqueline Cherry were accepted into the record without objection. Mr. Watts' pre-filed direct testimony is amended as noted in numbered paragraph 2 in the attached Settlement Agreement. Mr. Watts testified as to various details of the proposed Settlement Agreement. Among other things, Mr. Watts stated that forecasted sales varied by only 1.05% for the fifteen (15) month review period. Regarding the Company's proposal to flow-back the revenue requirement related to an excess deferred tax liability to South Carolina customers, Mr. Watts testified that a separate decrement is to be put into place along with the fuel component. The decrement for this twelve month period is agreed to be 0.1732 cents per kilowatt-hour. In the Settlement Agreement, the parties all agree that the appropriate fuel factor for Duke to charge for the period beginning with the first billing cycle in October 2005 extending through the last billing cycle of September 2006 is 1.5802 cents per kilowatt-hour. The resulting net billing component is 1.4070 (1.5802 – 0.1732) cents per kilowatt-hour, and will produce a net billing increase of

0.2570 cents per kilowatt-hour from the currently approved 1.1500 cents per kilowatt-hour fuel factor.

After careful review of the Joint Motion and the Settlement Agreement, and after having heard the testimony of the witness and representations of counsel, the Commission finds that approval of the Settlement Agreement is consistent with the standards for fuel review proceedings conducted pursuant to S.C. Code Ann. §58-27-865 (Supp. 2004). The settlement proposal allows recovery in a precise and prompt manner while assuring public confidence and minimizing abrupt changes in charges to customers. As such, it is in the public interest as a reasonable resolution of the issues in this case. Additionally, we find that the proposal advanced by ORS witness Watts and agreed to by the Parties in the Settlement Agreement provides stabilization to the fuel factor and minimizes fluctuations for the near future. We further find that the resolution espoused in the Settlement Agreement does not appear to inhibit economic development. Additionally, the Commission finds and concludes that the Settlement Agreement affords the Parties with the opportunity to review costs and operational data at succeeding fuel review proceedings conducted pursuant to S.C. Code Ann. §58-27-865 (Supp. 2004).

IT IS THEREFORE ORDERED THAT:

1. The Settlement Agreement attached hereto and the pre-filed direct testimony of ORS witnesses A.R. “Randy” Watts and Jacqueline Cherry are accepted into the record in the above-captioned case without objection. Further, the oral and written testimony of Mr. Watts presented at the hearing on August 24, 2005, is also incorporated into the record of this case.

2. The Settlement Agreement is incorporated herein by reference and is found to be a reasonable resolution to the issues of this case and further found to be in the public interest.

3. Duke shall set its fuel factor at 1.5802 cents per kwh effective for bills rendered on and after the first billing cycle of October 2005 and continuing through the billing month of September 2006. Duke shall lower the approved fuel factor of 1.5802 cents per kwh by 0.1732 cents per kwh to flowback the revenue requirement related to an excess deferred income tax liability as proposed by the parties resulting in a net billing factor of 1.4070 cents per kwh. Duke is hereby ordered to exclude the deferred tax decrement in calculating its under or over recovery for the next test period.

4. The Parties shall abide by all terms of the Settlement Agreement.

5. Duke shall file an original and ten (10) copies of the South Carolina Retail Adjustment for Fuel Cost and all other retail Tariffs within ten (10) days of receipt of this Order with the Commission and ORS.

6. Duke shall comply with the notice requirements set forth in S.C. Code Ann. §58-27-865 (B) (Supp. 2004).

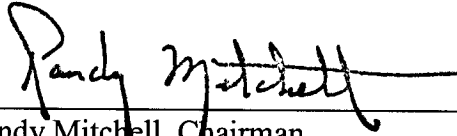
7. Duke shall continue to file the monthly reports as previously required.

8. Duke shall account monthly to the Commission and ORS for the differences between the recovery of fuel costs through base rates and the actual fuel costs experienced by booking the difference to unbilled revenues with a corresponding deferred debit or credit. ORS shall monitor the cumulative recovery account.


9. Duke shall submit monthly reports to the Commission and ORS of fuel costs and scheduled and unscheduled outages of generating units with a capacity of 100 MW or greater.

10. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

  
\_\_\_\_\_  
Randy Mitchell, Chairman

ATTEST:

  
\_\_\_\_\_  
G. O'Neal Hamilton, Vice-Chairman

(SEAL)

**BEFORE**  
**THE PUBLIC SERVICE COMMISSION OF**  
**SOUTH CAROLINA**  
**DOCKET NO. 2005-3-E**  
**August 17, 2005**

2005 JUN 13 PM 12:15  
DOCKETED  
CLERK OF COURT

IN RE: )  
 )  
Duke Power, a division of Duke Energy ) **SETTLEMENT AGREEMENT**  
Corporation, Annual Review of Base Rates )  
for Fuel Costs. )  
 )  
\_\_\_\_\_ )

This Settlement Agreement is made by and among the Office of Regulatory Staff of South Carolina ("ORS"), South Carolina Energy Users Committee ("SCEUC"), and Duke Power Company ("Duke") (collectively referred to as the "Parties" or sometimes individually as a "Party").

WHEREAS, the above-captioned proceeding has been established by the South Carolina Public Service Commission ("Commission") pursuant to the procedure in S.C. Code Ann. §58-27-865 (Supp. 2004), and the Parties to this Settlement Agreement are parties of record in the above-captioned docket. There are no other parties of record in the above-captioned proceeding;

WHEREAS, the Parties have engaged in discussions to determine if a settlement of the issues would be in their best interest;

WHEREAS, following those discussions the Parties have each determined that their interest and the public interest would be best served by settling all issues pending in the above-captioned case under the terms and conditions set forth below:

1. The Parties agree to stipulate into the record before the Commission the pre-filed direct testimony of ORS witness A.R. "Randy" Watts, without objection or cross-examination. The Parties agree to stipulate into the record before the Commission the pre-filed direct testimony of ORS witness

Jacqueline R. Cherry, without objection or cross-examination, and without testifying at the hearing. The Parties agree that no other evidence will be offered in the proceeding by the Parties other than this Settlement Agreement.

2. The Parties agree to amend the pre-filed direct testimony of A.R. "Randy" Watts by deleting the word "generation" on Line 13 of Page 9, and to accept and adopt the Settlement Agreement Exhibit 1, ADJUSTMENT FOR FUEL COSTS tariff, as attached.

3. The Parties agree to withdraw the pre-filed direct testimony and exhibits of M. Elliott Batson and Dwight L. Jacobs and the redacted and unredacted pre-filed direct testimony and exhibits of Janice D. Hager.

4. As a compromise to the positions advanced by ORS, SCEUC and Duke, all Parties agree to the proposal set out immediately below, and this proposal is hereby adopted, accepted, and acknowledged as the agreement of the Parties:

The Parties agree that in an effort to keep the Parties and Duke customers informed of the over/under recovery balances related to fuel costs and of Duke's best efforts to forecast the expected fuel factor to be set at its next annual fuel proceeding, Duke will provide to SCEUC, and where applicable, its customers the following:

(1) copies of the monthly fuel recovery reports currently filed with the PSC and with ORS; and

(2) a quarterly forecast beginning February 15, 2006 of the expected fuel factor to be set at its next annual fuel proceeding based upon Duke's historical over/under recovery to date and Duke's forecast of prices for natural gas, coal, oil and other fuel required for generation of electricity. Duke will use its best efforts in making these forecasts. To the extent that the forecast data required hereunder is confidential, any party or customer that wants forecasted fuel data will have to sign a non-disclosure agreement agreeing to protect the data from public disclosure and to only disclose it to employees or agents with a need to know.

5. The Parties agree that any and all challenges to Duke's fuel costs for the period prior to July 1, 2005, are specifically discharged, waived, and not subject to further review. Fuel costs for periods beginning on July 1, 2005, and thereafter shall be open issues for determination by the Commission in future fuel costs proceedings held under the procedure and criteria established in S.C. Code Ann. §58-27-865 (Supp. 2004).

6. For purposes of this Settlement Agreement, all Parties agree that the appropriate fuel factor for Duke to charge for the period beginning with the first billing cycle in October 2005 extending through the last billing cycle of September 2006 is 1.5802 cents per kilowatt-hour. Incorporating the flow-back or decrement for this twelve month period only of the 0.1732 cents per kilowatt-hour (related to an excess deferred income tax liability) will produce a net billing increase of 0.2570 cents per kilowatt-hour from the currently approved 1.1500 fuel factor. The resulting net billing component is 1.4070 (1.5802 – 0.1732) cents per kilowatt-hour.

7. ORS agrees to conduct a review and study of Duke's fuel purchasing methods. The ORS study is to include the forecasted months of July, August, and September 2005 and will continue through at least the 2005/ 2006 winter peaking months before a recommendation is made based on its findings. ORS will have complete and total control and responsibility over the methods and procedures that it may employ to conduct its review but agrees to meet with any Party requesting such a meeting at the outset of its review to receive suggestions regarding the scope and details of the review. ORS requests that Parties provide suggestions in writing as early as possible; however, ORS will not impose a deadline for receiving such information. In addition, ORS has agreed that it will hold meetings with any Party or its expert(s), at the request of such Party, during the progress of its review to receive interim comments regarding the status, focus and scope of its review. At the completion of its review, ORS agrees to issue a written report which will set forth its findings and conclusions. A report setting forth such findings and conclusions will be issued by ORS on or before June 30, 2006. A copy of the report will be provided to the Parties upon its completion, and ORS agrees to meet with any Party to discuss the report.



Specifically, a comprehensive study of coal and coal transportation will be performed. This study and analysis will include, but not be limited to, the following subject matters with respect to fuel purchasing methods:

**Coal and Coal Transportation**

- Alternative Transportation Modes in Lieu of Existing Railroads;
- Alternative Sourcing of Coal;
- Term of Coal Contracts;
- Mixture of Coal Contracts;
- Inventory Storage;
- Mine Visits to Major Producers/Suppliers;
- Meetings with CSX and Norfolk Southern;
- Use of Private (Company Owned/Leased) Rail Cars; and,
- Open Access of Rail Lines in United States.

**Other**

- Purchasing of Purchased Power;
- Fuel Mix (relative proportions of nuclear generation, coal-fired generation and other generation); and
- Overall management philosophy, established policies and procedures followed in: (i) generation planning, and (ii) fuel procurement.

8. Duke agrees to cooperate in good faith with ORS in its conduct of its review of Duke's fuel purchasing by providing information to ORS in a prompt and reasonable manner as such information is requested. Confidential information will be protected by ORS under the terms of a confidentiality agreement, to be negotiated between ORS and Duke and duly executed prior to the release of confidential information. Duke also agrees that ORS may make available to SCEUC, for review and copying, any

information made available to ORS by Duke for this review subject to SCEUC executing a confidentiality agreement with Duke and ORS containing the same or substantially similar terms and conditions as agreed to by ORS, if SCEUC desires to have access to confidential information. SCEUC understands they may not solicit information directly from Duke under the auspices of ORS's study.

9. The Parties agree to cooperate in good faith with one another in recommending to the Commission that this Settlement Agreement be accepted and approved by the Commission as a fair, reasonable and full resolution of all issues currently pending in the above-captioned proceeding. The Parties agree to use reasonable efforts to defend and support any Commission order issued approving this Settlement Agreement and the terms and conditions contained herein.


10. This written Settlement Agreement contains the complete agreement of the Parties. There are no other terms and conditions to which the Parties have agreed. This agreement integrates all discussions had among the Parties into the terms of this written document. The Parties agree that by signing this Settlement Agreement, it will not constrain, inhibit or impair their arguments or positions held in future proceedings. If the Commission should decline to approve the agreement in its entirety, then any Party desiring to do so may withdraw from the agreement without penalty, within 3 days of receiving notice of the decision, by providing written notice of withdrawal via electronic mail to all parties in that time period.

11. This agreement shall be interpreted according to South Carolina law.

12. The above terms and conditions fully represent the agreement of the Parties hereto. Therefore, each Party acknowledges its consent and agreement to this Settlement Agreement by authorizing its counsel to affix his or her signature to this document where indicated below. Counsel's signature represents his or her representation that his or her client has authorized the execution of the agreement. Facsimile signatures and e-mail signatures shall be as effective as original signatures to bind any party. This document may be signed in counterparts, with the various signature pages combined with the body of the document constituting an original and provable copy of this Settlement Agreement.

WE AGREE:

**Representing and binding the Office of Regulatory Staff:**

  
C. Lessie Hammonds, Esquire  
**Office of Regulatory Staff**  
1441 Main Street, Suite 300  
Columbia, SC 29201  
Phone: (803) 737-0800  
Fax: (803) 737-0895  
Email: [lhammon@regstaff.sc.gov](mailto:lhammon@regstaff.sc.gov)

WE AGREE:

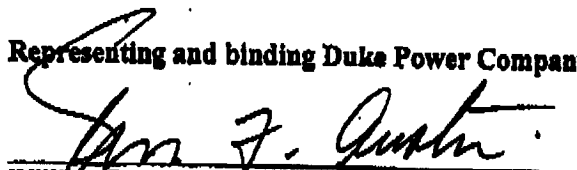
**Representing and binding South Carolina Energy Users Committee:**



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Scott Elliott, Esquire  
**Elliott & Elliott, P.A.**  
721 Olive Street  
Columbia, SC 29205  
Phone: (803) 771-0555  
Fax: (803) 771-8010  
Email: [selliott@elliottlaw.us](mailto:selliott@elliottlaw.us)

WE AGREE:

Representing and binding Duke Power Company:



William F. Austin, Esquire

Richard L. Whitt, Esquire

Austin, Lewis & Rogers, P.A.

Post Office Box 11716

Columbia, SC 29201

Phone: (803) 256-4000

Fax: (803) 252-3679

Email: [rlwhitt@alrlaw.com](mailto:rlwhitt@alrlaw.com)

Duke Power

Electricity No. 4  
 South Carolina Nineteenth Revised Leaf No. 50B  
 Superseding South Carolina Eighteenth Revised Leaf No. 50B

# ADJUSTMENT FOR FUEL COSTS

## APPLICABILITY

This adjustment is applicable to and is a part of the Utility's South Carolina retail electric rate schedules.

The Public Service Commission has determined that the costs of Fuel in an amount to the nearest one ten-thousandth of a cent, as determined by the following formula, will be included in the base rates to the extent determined reasonable and proper by the Commission.

$$F = E / S + G / S_1$$

Where:

- F = Fuel cost per kilowatt-hour included in base rate, rounded to the nearest one ten-thousandth of a cent.  
 E = Total Projected system Fuel costs:
- (A) Fuel consumed in the Utility's own plants and the Utility's share of fuel consumed in jointly owned or leased plants. The cost of fossil fuel shall include no items other than those listed in Account 151 of the Commission's Uniform System of Accounts for Public Utilities and Licensees plus SO2 emission allowances recorded in Account 509. The cost of nuclear fuel shall be that as shown in Account 518 excluding rental payments on leased nuclear fuel and except that, if Account 518 also contains any expense for fossil fuel which has already been included in the cost of fossil fuel, it shall be deducted from this account.  
Plus
  - (B) Fuel costs related to purchased power (and applicable SO2 emission allowances) such as those incurred in unit power and limited term power purchases where the fossil fuel costs and applicable SO2 emission allowances associated with energy purchased are identifiable and are identified in the billing statement. Also the cost of 'firm generation capacity purchases' which are defined as purchases made to cure a capacity deficiency or to maintain adequate reserve levels. "Costs of firm generation capacity purchases" include the total delivered costs of firm generation capacity purchased and excludes generation capacity reservation charges, generation capacity option charges and any other capacity charges.  
Plus
  - (C) Fuel costs related to purchased power (including transmission charges and applicable SO2 emission allowances), such as short term, economy and other such purchases, where the energy is purchased on an economic dispatch basis, including the total delivered cost of economy purchases of electric power defined as purchases made to displace higher cost generation at a cost which is less than the purchasing utility's avoided variable costs for the generation of an equivalent quantity of electric power. Energy receipts that do not involve money payments such as Diversity energy and payback of storage energy are not defined as purchased or interchange power relative to this fuel calculation.  
Minus
  - (D) The cost of fuel and applicable SO2 emission allowances recovered through intersystem sales including the fuel costs and applicable SO2 emission allowances related to economy energy sales and other energy sold on an economic dispatch basis.  
 Energy deliveries that do not involve billing transactions such as Diversity energy and payback of storage energy are not defined as sales relative to this fuel calculation.
- S = Projected system kilowatt-hour sales excluding any intersystem sales.  
 G = Cumulative difference between jurisdictional fuel revenues billed and fuel expenses at the end of the month preceding the projected period utilized in E and S.  
 S<sub>1</sub> = Projected jurisdictional kilowatt-hour sales for the period covered by the fuel costs included in E.

The appropriate revenue-related tax factor is to be included in these calculations.

The fuel cost F as determined by SCPSC Order No. XXXX-XXX for the period October 2005 through September 2006 is 1.5802 cents per kilowatt-hour. The fuel cost will be further adjusted by a deferred tax decrement rider of 0.1732 cents per kilowatt-hour for a net billing factor of 1.4070 cents per kilowatt-hour for the period October 2005 through September 2006.